IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2007

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THE HONOURABLE MR.JUSTICE V.DHANAPALAN

W.P.Nos.15409 to 15416 of 1998

S.Duraisamy ... Petitioner in W.P.No.15409 of 1998
M.Ponnusamy ... Petitioner in W.P.No.15410 of 1998
K.Mailsamy ... Petitioner in W.P.No.15411 of 1998
S.Ponnusamy ... Petitioner in W.P.No.15412 of 1998
C.Jothirathinam ... Petitioner in W.P.No.15413 of 1998
R.Narayanan ... Petitioner in W.P.No.15414 of 1998
R.Ramalingam ... Petitioner in W.P.No.15415 of 1998
R.Pandurangan ... Petitioner in W.P.No.15416 of 1998

vs.

1. The Joint Registrar of Co-operative Societies,
Salem Region,
Ramakrishna Road, Salem 7.

2. The Deputy Registrar of Co-operative Societies,
Omalur Circle,
Salem District.

3. K.K.124 Kolathur Primary Agricultural
Co-operative Bank Limited,
represented by its Special Officer,
Kolathur Post, Mettur Taluk. ... Respondents in all WPs.

Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari calling for the records relating to the order dated, 22.09.1998 of the third respondent issued pursuant to the proceedings of the second respondent and Resolution No.1, dated 22.09.1998 and quash the same.

For Petitioners in all W.Ps. : Mr.Kandavadivel Doraisamy

For Respondents in all W.Ps.: Mr.V.Arun,
Goverment Advocate, for R1 & R2
Mr.S.Vijayan
for Mr.G.Sankaran, for R3

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C O M M O N O R D E R

The petitioners in all these writ petitions are employees of K.K.124 Kolathur Primary Agricultural Co-operative Bank Limited, the third respondent herein. The petitioners are working in the Bank as Junior Clerk, Senior Clerk and Fertilizer Sales Manager. The third respondent Bank has also given increment in their salary and they have been working in the promoted post for more than 16 months. According to them, there is no complaint against them throughout their service.

2. While that be so, the third respondent Bank has passed the impugned order, reverting the petitioners from the post of Junior Clerk to Clerk, Senior Clerk to Clerk and Fertiliser Sales Manager to Sales Manager, pursuant to the proceedings of the second respondent in Na.Ka.No.9937/96 V.S.S.2, dated 24.06.1998, 06.08.1998 and 21.09.1998 and the impugned order passed by the third respondent was based on the resolution of the Special Officer, dated, 22.09.1998, which inter alia contained the proceedings of the Deputy Registrar, Omalur, the second respondent herein, which states that the promotion of the petitioners was improper. According to the petitioners, they were not furnished with a copy of the proceedings issued on three different dates mentioned in the impugned order, denying them their opportunity to defend their case and no notice was served on them after the Resolution was passed by the Special Officer. Therefore, it is the contention of the petitioners that the impugned order of reversion is violative of the principles of natural justice. Aggrieved by the impugned order, the petitioners have filed these writ petitions seeking to quash the order of the third respondent, dated 22.09.1998.

3. Heard Mr.Kandavadivel Doraisamy, learned Counsel for the petitioners, Mr.Arun, learned Government Advocate for second and third respondents and Mr.S.Vijayan for the third respondent.

4. Learned Counsel for the petitioners has strenuously contended that though the petitioners had clean service and have been given promotion and increment, the third respondent has passed the impugned order and the only reference made in the impugned order is the proceedings of the second respondent in Na.Ka.No.9937/96 V.S.S.2, dated 24.06.1998, 06.08.1998 and 21.09.1998, which is the basis for passing a Resolution and also reverting the petitioners to their original posts.

Further, the learned Counsel for the petitioners has assailed the impugned order as it not only made a reversion but, it has also further directed to recover the increment amount from the

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petitioners. He has contended that the copy of the proceedings passed by the second respondent on three different dates mentioned in the impugned order of the third respondent, reverting the petitioners to their original posts was not furnished to the petitioners and the third respondent has not stated any reason in the impugned order for the reversion of the petitioners to their original posts.

5. On the other hand, learned Government Pleader, on instructions, has submitted that the Resolution has been passed based on the impugned order of the third respondent, which is in accordance with the procedures contemplated and there is no violation at all. He contended that the promotion of the petitioners was made improperly and the reasons stated in the Resolution of the third respondent Bank are correct and as such, there is no infirmity in the order passed by the third respondent.

6. Heard the learned Counsel on either side.

7. A reading of the impugned order, referring to Resolution No.1, dated 22.09.1998 of the Special Officer, which is based on the proceedings in Na.Ka.No.9937/96 VSS 2, dated 24.06.1998, 06.08.1998 and 21.09.1998 is the basis for reverting the petitioners to their original posts and it is seen from the Order that the erstwhile Managing Committee has improperly made an appointment and therefore, the Special Officer has passed the Resolution dated 22.09.1998 to revert the petitioners. It is clear that the copies of the proceedings of the Deputy Registrar based on which, the third respondent has passed the order reverting the petitioners were not made available to the petitioners and it is clear that the proceedings of the Deputy Registrar in the Resolution, dated 22.09.1998 are contrary to the rule of law.

8. If the promotion made was improper and if the respondents wanted to revert the petitioners, then it would have been fair on the part of the respondents had they given them a reasonable opportunity, by putting them on notice. In order to put the petitioners on notice, the respondents ought to have served a copy of the proceedings referred in the impugned order to them, to enable them to make their representations at least to put their grievance, which opportunity has been denied to the petitioners in these cases. It is not the case of the respondents that the proceedings have been furnished to the petitioners. Therefore, the proceedings, which is the basis for reverting the petitioners, has not been furnished to them, which is in violation of the principles of natural justice and prejudicial to the interest of the petitioners.

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9. In my opinion, the impugned order passed by the third respondent is in violation of principles of natural justice, as the copy of the proceedings relied on has not been furnished to the petitioners. In that view of the matter, the impugned order passed by the third respondent cannot be sustained and the same is quashed.

In the result, the writ petitions are allowed. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To

1. The Joint Registrar of Co-operative Societies,
Salem Region,
Ramakrishna Road, Salem 7.

2. The Deputy Registrar of Co-operative Societies,
Omalur Circle, Salem District.

3. The Special Officer
K.K.124 Kolathur Primary Agricultural
Co-operative Bank Limited,
Kolathur Post, Mettur Taluk.

8 ccs to M/s. Muthumani Doraisamy, Sr. 24655
1 cc to the Government Pleader, High Court, Madras, Sr. 24510

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